



U.S. Export Assistance Center

600 Superior Ave., Suite 700 Cleveland, OH 44114

CS ADVICE FOR DOING BUSINESS WITH CHINA

We have received numerous requests from area companies looking for guidance with China -- For both obtaining visas to come to the US and for Intellectual Property (IP) Rights protection concerns. This article contains information concerning both of these topics. If there are additional questions, please feel free to contact us.

I. CHINA VISA INFORMATION

1. Make sure that the requested visit is legitimate. By no means are all requests for letters of invitation (required by the Chinese visitor to obtain a passport) legitimate. Some visits are used to gather intelligence for IPR violations, while others apparently have as their main purpose a tourist's desire to see the country (Chinese government does not issue tourist passports). US sellers are also cautioned that language in sales contracts should not have a sale hinge on a factory visit, as the failure of a visa interview can result in the sale being voided.

It is not unusual at all for a Chinese company to lead on a US company and then say they can't come due to visa problems. Worse, it is not uncommon for a Chinese company to sign a high dollar contract for some heavy equipment with a visual inspection upon completion as part of the deal. The company then doesn't get a visa (either due to their own fault or failure to prove non-immigration or just plain not applying) so the US company loses the contract and all the time and money already invested in the project.

2. The Applicant responsibility:

a. Visa officers seem to want approximately 60-90 days' notice. It seems that requests are approved when there is a longer lead time.

b. The applicant must prove (to the satisfaction of the examiner) that he or she will leave the US within the time limits of the visa. In making that determination, US visa officials look to see the extent of the applicant's ties to the home country. For example, spouse and children, assets, income, etc. We strongly recommend that applicants FULLY DOCUMENT all of their ties to home country. A marriage certificate, birth certificates,

mortgage documents, car ownership documentation, corporate registration documents, pay stubs, bank statements and other documents will help show the necessary ties to country.

3. The US company responsibility:

a. Help your applicant secure their visa by providing original or copy invitation letters on company letterhead, explaining each applicant's reason for visiting the US and describe the full itinerary in detail. Omit references to unrelated travel by the applicants and state clearly that your company is paying travel expenses, if this is the case.

If the visitor is paying his/her own way, they MUST SHOW PROOF of their ability to do so during the interview. Large delegations and young, single applicants will receive much closer scrutiny.

b. The Commercial Section offer advice only BEFORE an applicant is interviewed. We encourage companies to review the information provided on the US Embassy website: www.usembassy-china.org.cn. Another good resource to use is: www.UnitedStatesVisas.gov.

II. INTELLECTUAL PROPERTY (IP) RIGHTS IN CHINA

Because IP rights violations are quite common, we have centralized responsibility for handling US company complaints in a Trade Facilitation Office in Beijing. Also, our Shanghai office has produced "A Short Guide to IP Rights Protection." Below are some of the key points from the report. Contact us for a complete copy.

Minimizing the risk of IP infringement takes time, management attention, and to varying degrees, money. Companies must ask themselves whether they are willing to make the necessary financial and managerial commitment to protect their IP rights in China.

In determining the likelihood of an IP problem in China, the US company will need to consider the following:

1. Replicability of IP - Some IP is more easily replicated than others. For example, digital media and trademarks are easily and cheaply copied, while certain hardware products require large investments in production technology.

2. Number of, and Relationship with, Potential End Users. Is the number of potential end users limited? If only a limited number of end users can utilize a particular product or service, then violating an IP right may be less attractive. Similarly, if the US company already has a good relationship with potential end users, then they may work to protect the US company's IP.

3. Is Access to Proprietary Information Minimized in the Workplace?

Access should be limited and granted on a need-to-know basis; documents should be stamped "Confidential", and those documents should be shredded when discarded; and key employees should be vetted thoroughly.

4. Is Access to the IP within the Product Difficult? Some IP is so deeply imbedded in a product that stealing it may be nearly impossible. Other IP may be obvious and easy to access.

5. Who are the Partners Along the Value Chain? In searching for partners, a company should follow the "Rule of Six Ds": Due Diligence, Due Diligence, Due Diligence. The US Commercial Service offers to an inexpensive basic due diligence background search. Contact us for more information.

6. Speed of Technological Change. Some technology changes too fast for potential copiers to have much impact.

7. Have All Legal Steps been Taken? China's legal regime for protecting IP is well developed and more effective than many realize. US companies are urged to engage experienced legal counsel to take fullest advantage of protections available under Chinese law. Contact us for lists of local and international law firms in China.

8. Ability to Live with Violations. Some US companies face rampant violation of IP, while others live with lower levels of infringement. Still other companies have left the market because they were unwilling to absorb costs of IP violations.

Winter 2003-2004

Trade World Ohio

NEW CENTRAL AMERICA OFFICE OPENS

The US is currently negotiating a Central American Free Trade Agreement (CAFTA) with Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. These negotiations will be finished this year, and a Congressional vote is expected around May-June 2004.

Because of improved market opportunities, Commercial Service (CS) operations in Central America have been reorganized with a new Regional Commercial Office in San Salvador, El Salvador. CS services are now coordinated regionally, giving companies the tools for marketing to a larger market.

Our offices in Costa Rica, Guatemala and Honduras will still be responsible for local markets but will coordinate with the El Salvador office on regional issues. CS Panama also will join forces on issues and programs as appropriate.

There are good reasons to be looking to Central America for sales: Last year US exports to Central America reached \$11.5 billion - about the same as US exports to Russia, India and Indonesia combined. During the first six months of 2003, US exports to the region were up 17.2% over the same period in 2002. Imports from the US are diverse and have steadily increased in market share and dollar value over the past 10 years. US firms now enjoy close to a 50% market share in Central America.

Get exposure for your product or service in all five CAFTA countries plus Panama during our Catalog Exhibition in March. See EVENTS.

WORLD BANK'S NEW BUSINESS PORTAL

Did you know there is over \$11 billion in annual business opportunities in over 80 countries?

Go to www.WorldBank.org and click on "Business Opportunities" in left hand corner of web page and you are directed to a brand new business portal for companies who wish to bid on contracts funded by the World Bank.

NEW SED FORM REQUIRED

To facilitate the transition to a new Census Bureau form, all US Customs and Border Protection (CBP) ports will accept both old and new versions of the Shipper's Export Declaration (SED) through 01/17/04. **On 01/18/04, only the new Form 7525-V Shippers Export Declaration will be accepted by CBP.** Any previous versions of the SED tendered on or after 01/18/04 will be rejected and the exporter will be advised of their failure to submit an SED.

The new SED Form 7525-V, dated 07/18/2003 is now available at:
<http://www.census.gov/foreign-trade/regulations/forms/new-7525v.pdf>.

The US Census Bureau also placed a Federal Register notice on 7/17/03 to announce amendments to the Foreign Trade Statistics Regulations (FTSR). In addition to requiring mandatory electronic filing for items on the CCL and the USML, the final rule adds a requirement that the freight forwarder's Employer Identification Number (EIN) be entered on the paper version of the Shipper's Export Declaration (SED) when required.

SNAP+ PROPOSED FOR EXPORT LICENSE APPLICATIONS

A new rule proposed by the Bureau of Industry and Security (BIS) in the 11/12/03 Federal Register mandates the use of SNAP+ for all Export License applications, Reexport Authorizations, Classification requests, Encryption Reviews, and License Exception AGR notifications (unless paper filing is specifically authorized).

SNAP+ is a new version of the existing SNAP (Simplified Network Application Processing System), the electronic filing system currently being used by exporters filing frequently.

You may send comments by 1/12/04. Email: rpdp@bis.doc.gov, fax: 202-482-3355, or mail: Regulatory Policy Division, Office of Exporter Services, BIS, Dept of Commerce, 14th & Pennsylvania Ave NW, Rm 2705, Washington DC 20230. Ref Regulatory ID #0694-AC20 on all comments. Contact us for more information.

VIDEO OPPORTUNITIES: ASIAN MARKETS & MEXICO

RSVP - Please call us if you have an interest in either of these marketing avenues. It will enable us to plan events in the coming months - We will only conduct the free video conferences (Asian countries) if there is enough interest.

ASIA: We have an opportunity in early 2004 to link-up with one or more Asian posts in the following countries: Australia, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, New Zealand, Philippines, Singapore, Taiwan, Thailand, Vietnam.

These free video conferences will follow a pre-arranged agenda that includes introductions by a Commercial Officer, an industry sector briefing, and Q & A. The conferences will typically last for 1-1.5 hours.

MEXICO: If your company sells to manufacturers and is seeking buyers in Mexico, we have a new program called "Marketing to Manufacturers." This service enables us to schedule video conferences with our office in Monterrey so that an individual company or several non-competing firms can meet potential buyers under CS auspices. Fees will be based on the scope of each project.

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2004 EVENTS CALENDAR

LOCAL & US EVENTS

January 5: Live Web Broadcast "Doing Business in Iraq." Presentation by US Commercial Officer in Ankara with Q&A session covering concerns of companies anticipating doing business in Iraq and/or setting up a business in the region. 10 am EST. Free. Go to: www.wtcankara.org.tr

January 6: Benefits of Exporting-Country Focus: Brazil (Lorain County). Featuring Commercial Officer Janice Corbett & successful exporters. 8:30am-12pm. \$15. Location: Lorain County Community College (Elyria). Contact: Susan Whitney, at (216)522-4755 or swhitney@mail.doc.gov.

January 7: Benefits of Exporting - Country Focus: Brazil (Akron, OH). Featuring Commercial Officer Janice Corbett and successful exporters. 8:30am-11am. \$15. Location: Greater Akron Chamber (Akron). Contact: Ricardo Pelaez, Akron USEAC at (330)237-1264 or rpelaez@mail.doc.gov.

January 9: US & Norway Bilateral Relations. Featuring Ambassador John D. Ong. Sponsor: Akron Council on World Affairs. Location: Hilton Inn 3180 W Market St, Fairlawn 6:30 pm. Contact: (330) 867-6412.

January 15: Audio Conference on Filing Regulations. Featuring US Census Chief of Foreign Trade Division & sponsored by IOMA. Will cover electronic filing requirements for exports. 2pm-3:30 pm EST. \$275 (members \$225). Contact: www.ioma.com/products/audioconf.php or call: (800) 401-5937.

January 16: Export Tax Incentives. Featuring Lynn Selzer, KPMG. 7:30am-10:00am. \$25 WIT-NEO member/\$40 nonmember. Location: Clarion Hotel & Conference Center Cleveland South, 5300 Rockside Rd (Independence). Contact: Vickie Morenz, WIT-NEO: vmorenz@aco-online.com

January-February-March: CHINAQuest - Private company's program for area executives. Combines one-on-one & roundtable sessions in downtown Cleveland to prepare and implement China strategy. Contact: Denys Resnick at (216)320-9398 or d.resnick@mindspring.com.

Jan 21-Feb 25: International Business Certificate Program. A six-week program. Location: Lorain County Community College. Wednesdays in the am. \$595. Contact: Lori Peters at (440) 366-7405 or lpeters@lorainccc.edu. 2nd Contact: Carrie Hering, LCCC Bus Div at: chering@lorainccc.edu.

January 25: GOST-R Event on Russian Standards. This seminar will provide information to make exporting to Russia more efficient, less expensive and enhance process transparency. Featuring the Russian State Committee for Standardization and Metrology (**Gosstandart**). Washington, DC. To register go to: www.rosstandard.com/seminar.htm. Contact us or: Gregory Temkin at (202) 575-3431 or gt@rosintorg.com.

SELECTED EVENTS ABROAD

January 11-13: IRAQ OUTREACH2004 (Amman, Jordan). Commerce- certified trade show. Expected participants: high-level CPA officials, large US contractors, Iraqi ministerial officials, Iraqi companies, as well as firms from around the region and around the world. See: www.kallman.com. Contact: Sue Whitney: swhitney@mail.doc.gov

January 19 - 23: REBUILD IRAQ2004 (Kuwait City). Fully-booked show but CS Product Literature Center still available for catalog show. \$300. USEAC Cleveland has entry form. Contact: Sue Whitney: swhitney@mail.doc.gov

March 2-4: Expo Manufactura.

US Pavilion at Cintermex Expo Center, Monterrey, Mexico. \$3500. Contact: Sue Whitney at swhitney@mail.doc.gov

March 17-21: WORLDBEX 2004 US Pavilion in Manila.

Sectors include: building & light construction. Contact: Marcia Brandstadt at Marcia.Brandstadt@mail.doc.gov

March 22-April 22: CAFTA Marketplace Catalog Exhibition.

Includes six cities in Central America. \$450 (all-inclusive). Contact: Marcia Brandstadt at Marcia.Brandstadt@mail.doc.gov

March 29-April 6: Environmental Technologies Trade Mission to Malaysia, Thailand, and Vietnam.

Open all environmental sectors. \$2950. Contact us for more information. Contact: Clem von Koschembahr at cvonkosc@mail.doc.gov

April 15-17: Bangalore Bio 2004 (India).

Commerce-certified trade show. 4th annual event, expects to draw over 200,00 visitors and 150 exhibitors from 30 countries. Go to: www.bangalorebio2004.com. Contact: Clem von Koschembahr at cvonkosc@mail.doc.gov

April 20-24: EXPOMIN Chile 2004 US Pavilion in Santiago -

Largest mining show in Latin America. Contact: Clem von Koschembahr at cvonkosc@mail.doc.gov

May 3-4: Plastics Trade Mission to Canada (Toronto).

For US producers of equipment & materials. One-on-one matchmaking. \$900. Contact: Ricardo Pelaez at rpelaez@mail.doc.gov.

June 16-17: RepCan 2004. Toronto, Canada.

Meet qualified agents, distributors or strategic alliance partners. One-on-one meetings, product promotion, table-top displays. \$1200. Contact: Ricardo Pelaez at rpelaez@mail.doc.gov.

October 20-23: The "K" Show (Düsseldorf, Germany).

Industry focus on rubber & plastics. US Commercial Service (USCS) is offering a "CEO Program" to enable companies to have a presence and meet customers via a business center managed by the USCS, but at a lower cost than exhibiting. Contact: Ricardo Pelaez at rpelaez@mail.doc.gov.